payments of interest, her duty to inform the mortgagee of the forgery was not such as to estop her from claiming its invalidity.

A mortgagor is not estopped from setting up the invalidity of his mortgage, unless there has been some fraud, misrepresentation, or concealment on his part. *Jones on Mortgages,* Sec. 631; *Brewster v. Madden,* 15 Kansas, 249. Where a person makes payments to an innocent holder of a promissory note to which his name has been forged, in order to screen the forger, he is estopped from setting up forgery. *Buck v. Wood,* 85 Me., 204. But mere silence is not a basis of estoppel unless there is not only a right, but a duty, to speak. *Cautley v. Morgan,* 51 W. Va., 304. Only in the case where a party to a suit, by his silence when he ought to speak, has naturally induced conduct on the part of his adversary, is he estopped to take advantage of any act or omission, so induced to the latter's disadvantage. *Fair Haven & W. R. Co. v. City of New Haven,* 77 Conn., 667. But equitable estoppel, as in this case, cannot arise from one's silence or inaction, unless the one seeking relief knows that he ought to speak, or has caused another to change his position to his injury. *Griffin v. Nichols, Shepard & Co.,* 51 Mich., 575. *Columbia State Bank v. Carrig,* 3 Neb. (unof.), 592.

MUNICIPAL CORPORATIONS—JUDICIAL ACT—LIABILITY.—AUSTIN V. CITY OF DUNKIRK, 124 N. Y. SUPP. 248.—*Held,* that in an action for personal injuries from falling on a sidewalk, the construction of such sidewalk was a judicial act on the part of defendant for which it is not liable and the submission of its liability to the jury was error.

A municipal corporation in planning a public work acts judicially and when proceeding in good faith, is not liable for error of judgment; while in constructing its work, it acts ministerially and it is bound to see that it is done in a reasonable and skillfull manner. *City of Chicago v. Norton Milling Co.,* 96 Ill., 580. The determination of the plan of a public work is in the nature of a legislative action, the lawful exercise of which can neither be a wrong nor be transferred to courts or juries from the body to which it belongs. *City of Lansing v. Toolan,* 37 Mich., 152; *Conlon v. City of St. Paul,* 70 Minn., 216; *Wells v. Atlanta,* 43 Ga., 67. And if the work is done precisely in accordance with the plan the city is exempt from liability. *Clemence v. City of Auburn,* 66 N. Y., 334. But a city has no right to plan or create an unsafe or dangerous condition. *Gould v. City of Topeka,* 32 Kan., 485. For such a rule would tend to relieve municipal corporations of carelessness and increase the dangers to persons using the street. *Kiernan v. Mayer,* 14 N. Y. Ap. Div., 156. So some courts hold that a city will be liable if the construction is manifestly dangerous, although the city adopted the plans approved by skillful engineers. *Watters v. City of Omaha,* 76 Neb., 855. And the city will be liable if the judicial act is performed negligently. *Donahue v. City of New York,* 3 Daly, 65. And the city can not escape liability because of defect of original plan. *Stone v. City of Seattle,* 30 Wash., 65; *McDonald v. City of Duluth,* 93 Minn., 206. But other courts have held negligence must only be in the subsequent management and not in the original plan. *Lansing*

v. Toolan. Supra; City of Augusta v. Mettle, 115 Ga., 124; *Clemence v. City of Auburn,* 66 N. Y., 334.

PUPLIC LANDS—CONVERSION OF GUM FROM BOXED TREES—INNOCENT PURCHASERS OF PRODUCT.—UNITED STATES V. WATERS-PIERCE CO., 180 FED. REP. 309.—*Held,* where gum taken from trees on public land under homestead entry, in violation of law, was sold to distillers, and by them manufactured with other gum into turpentine and resin, which was sold to an innocent purchaser, that the United States has no title to such products which will support an action of conversion against the purchaser.

In general, where trees, minerals, or other products are severed from the land by an intentional trespass, that property severed still belongs to the owner of the land, and he may reclaim it wherever found, and in whatever condition it may be at the time. *Cooley on Torts* (3rd. ed.), 72. New York carries this doctrine very far. *Silsbury v. McCoon,* 3 N. Y., 379.. If the trespass was unintentional, or by mistake, whether the owner can recover depends upon the relative value of the originals and the expenditures upon the same, upon how great is the disparity between the original materials and the property sought to be reclaimed, and upon the relative injustice and hardship upon the parties. *Wetherbee v. Green,* 22 Mich., 310; *Isle Royal Mining Co. v. Hertin,* 37 Mich., 332; *Eaton v. Langley,* 65 Ark., 448; *Lake Shore & Michigan Southern Railroad Company v. Hutchins,* 32 Ohio St., 571. But the importance of enhancement in value is questioned in *Strubbee v. Trustees Cincinnati Railway,* 78 Ky., 481. There are exceptions and qualifications to the general rule as to intentional trespasses. Even those who purchase from the trespasser acquire no better title than the trespasser. *Anderson v. United States,* 152 Fed. Rep., 87. But the rights of third parties, when they intervene, and when full protection can be given to the innocent party whose goods have been wrongfully used, will be protected. *National Park Bank v. Goddard,* 30 N. Y. Supp., 417. Also, the owner, if he has notice of the conversion and knowledge that sales are to be made, cannot recover the property from a purchaser in good faith, or hold him responsible for the conversion. *Preston v. Witherspoon,* 109 Ind., 457; *Foster v. Warner,* 49 Mich., 641. Without such notice or consent the owner may recover from an innocent purchaser. *Strubbee v. Trustees Cincinnati Railway, supra.*

SALES—BREACH OF CONTRACT—MEASURE OF DAMAGES.—HARDWOOD LUMBER CO. V. ADAM AND STEINBRUGGE, 68 S. E. (GA.), 725.—*Held,* that in a suit for breach of contract for failure to deliver certain goods, of a specified quality and sold at a specified price, the measure of damages is the difference between the contract price and the market price at the time and place of delivery.

The courts are universally agreed on the above rule, and hold it invariably where the contract is executory and the purchase price not having been paid. *Saxe v. Penokee Lumber Co.,* 159 N. Y., 371. *Bartlett v. Blanchard,* 13 Gray (Mass.), 429. But the parties may expressly stipulate beforehand what the measure of damages shall be in case of a breach of